



**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL  
DOUBLE PATENTING REJECTION**

In re application of : Freeman et al.  
Assignee : Finisar Corporation  
Serial No. : 10/688,356  
For : Variable Electrochromic Optical  
Attenuator  
Filed : October 17, 2003  
Examiner : Tuyen Q. Tra  
Group Art Unit : 2873

**ASSISTANT COMMISSIONER OF PATENTS  
Washington, D.C. 20231**

Dear Sir:

Assignee, through its attorney of record, represents that it is the owner of the entire interest in the above-identified patent application. Assignee is the owner of this application because the inventor assigned all of his rights in this application to the Assignee, and this assignment is recorded in the United States Patent and Trademark Office at Reel 015123, Frame 0973.

Assignee, hereby disclaims, except as provided below, the terminal part of any patent granted on the above-identified application that would extend beyond the expiration date of the full statutory term of United States Patent Application Serial No. 10/688,375, which was filed on October 17, 2003, as presently shortened by any terminal disclaimer. Assignee agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to it and the prior patent are commonly owned. This agreement is to run with any patent granted on the above-identified application and is to be binding upon the grantor, its successors or assigns.

Assignee, however, does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration date of the full statutory term of the prior patent in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321(a), has all claims canceled by a reexamination certificate, is reissued or is otherwise terminated prior to expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

Assignee hereby declares that all statements made herein of its own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Dated this 9<sup>th</sup> day of February, 2005.



Respectfully submitted,

WORKMAN NYDEGGER

By: 

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